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MICHAEL P. JUDGE
PUBLIC DEFENDER

TO: THE HONORABLE YVONNE BRATHWAITE BURKE
Chairperson, L.A. County Board of Supervisors .

FROM: MICHAEL P. JUDGE
Public Defender
Executive Office 

DATE: October 22, 2003

RE: MINUTES - EXPANDED STAFF MEETING

Attached is a copy of the Minutes of the Expanded Staff Meeting of the Office of the Public Defender held on September 11, 2003.

MPJ: Ifg

Attachment

cc: Each Supervisor
Each Justice Deputy
CAO: Sharon Harper, Chief Deputy



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MICHAEL P. JUDGE
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TO: ALL STAFF

FROM: MICHAEL P. JUDGE
Public Defender *MPJ*

DATE: October 22, 2003

RE: MINUTES - EXPANDED STAFF MEETING

The Expanded Staff Meeting for the Public Defender's Office was held on September 11, 2003. The following are members:

Michael P. Judge
Robert E. Kalunian
Lon Sarnoff
John Vacca
Ronald Brown
Winston Peters
Mel Tennenbaum
Darolyn Jensen
Alan Abajian
Allen Adashek
Patricia Aguilar
Verah Bradford
John Brock
Carol Clem
Mike Concha
Corrine Cortinas
Joan Croker
Patricia DeLaGuerra
Mike Demby
Wendy Edmisten

Kelly Emling
Gregory Fisher
Bobby Gil
Stu Glovin
John Gonzales
Laura Green
Bob Hall
Bernice Hernandez
Steve Hobson
Marvin Isaacson
Lita Jacoste
Judith Johnson
Robert Johnson
Cheryl Jones
Clyde Juloya
Charlie Klum
Mark Lessem
Doug Love
John Martinez
Albert Menaster

Paula Montez
Diane Parris
Geneva Phillips
Ramon Quintana
Rudy Rousseau
Bill Saul
Stan Shimotsu
Leslie Stearns
Haydeh Takasugi
Karen Thompson
Marilyn Turner
Bill Weiss
Ron White
Mark Windham
Dennis Yamamoto
Janet Yarbrough
Ron Yorizane
Sharon Allen

The Expanded Staff Meeting of September 11, 2003 was chaired by Michael P. Judge, Public Defender.

Mr. Judge acknowledged and welcomed the Head Secretary, Sharon Allen, from the Pasadena Branch office to the meeting.

The following topics were discussed:

Announcements by Mr. Kalunian

CASELOAD SUMMARIES for the Month of August are due. Those of you who have not submitted them, can get them to Mr. Kalunian as soon as possible.

STUDENT LOAN REPAYMENT ASSISTANCE BILL by Mr. Judge

Mr. Judge gave an update on the Student Loan Repayment Assistance Bill currently in Congress (Senate Bill 1091). Three more co-sponsors have come on board, Senator Dayton from Minnesota, Senator Lautenberg from New Jersey, Senator Robin from Michigan. There are now seventeen or eighteen co-sponsors, which is a good start, but we certainly need more. Diane Feinstein is already a co-sponsor, Barbara Boxer who has been supportive in the past is still supportive, but is not down as a sponsor yet. Mr. Judge indicated that Senator Barbara Boxer should be contacted and be asked to join as a co-sponsor on this legislation. Mr. Judge suggested that those who have contacts with offices of U. S. Senators out of state to get the word out to these people of how important it is that we get this legislation enacted.

DEATH PENALTY COLLEGE by John Brock

Just a reminder, Mr. Brock indicated the Office Death Penalty Conference is Friday the 17th and Saturday the 18th of October. Mr. Brock asked that all Grade IV's and Grade III's be informed of the conference.

CONFIDENTIALITY by Ron Brown

Recently an applicant for DPD I told the interview panel that he had accompanied one of our lawyers on a "ride along" for an entire day and witnessed attorney/client interviews. Our law clerks are covered by the attorney/client privilege, but people from the public are not. Mr. Brown asked all branch managers to remind their staff, forthwith that it is impermissible to have friends, relatives, cousins or whoever accompany them into the lockup and/or observe our interviews with clients. Failure to abide by this could have serious negative ramifications.

COUNTY STRATEGIC COMMUNICATIONS PLAN by Robert Kalunian

A component of the County Strategic Plan is a communications strategy. Part of the communication strategy is to enhance and increase the dissemination of notices of County services and to promulgate information about the quality of service of the county both among county employees and to the public. Chief Administrative Officer, David Janssen, has requested that all managers be made aware of the efforts of the County. Mr. Kalunian distributed a memo outlining the forms and means of communication that the County is attempting to achieve. One of those media is the *Family News*, a current copy of which was distributed to those in attendance.

E-MAIL SYSTEM by Lon Sarnoff

Some may have become aware that the County e-mail system has changed. ISD established a spam filter in the e-mail communication system and created what is called "Junk" mail box. It filtered as far as we have been able to determine (we don't know what the filtering mechanism is) any e-mail that has a \$ sign in the subject line, also anything with the word viagra, and anything containing the word sex (something which is very often germane to our work). Such information was automatically diverted to junk mailboxes. There were postings that were directed to our PDNet that instead were not disseminated, and went into peoples Junk box. Postings from CPDA's Claranet went into peoples Junk box. Tina Katz used the word SX and was able to avoid the filter. We will contact ISD and lodge our concerns to this on two grounds: first to setting up filters without notification; and second, to request they consult the departments for input on such matters prior to instituting such changes.

You may access your Junk mailbox by signing on to the remote access function, at eagle.co.la.ca.us and then get to your junk box. You cannot get to the junk mailbox through the regular netscape e-mail function.

Assistant Public Defender Lon Sarnoff monitors the Department's public website, and there is quite a bit of junk that comes through that. He did delete the Junk box, but it appears also to have deleted all the other mail that was in that box, archives and all the other boxes. So don't delete the box.

Mr. Kalunian indicated that the Department will work with ISD and CIO and try to get this matter resolved as soon as possible.

LEGON INSURANCE COMPANY BAIL BONDS INSOLVENCY by Robert Kalunian.

We received notice on August 29, 2003, from the Superior Court that Legon Insurance Company has been found insolvent by a Pennsylvania Court. They are the insurance company underwriting bail bonds in several hundred cases in Los Angeles County. The Court sent out a notice to the

Department and to all of the judges indicating that the bonds are no longer valid and that the trial court must take action. There are several alternatives, the Court may issue a warrant, or may allow the defendant to post bond, or they may release the defendant on his own recognizance, or any other terms acceptable to the court.

Mr. Kalunian thinks there ought not be inequities inflicted on any of our clients who unfortunately picked the wrong bonding company. Mr. Kalunian believes there will not be many problems as past similar insolvencies of underwriters were handled equitably by the courts.

The good news is that apparently only a few cases that are underwritten by Legon Insurance company are still pending. John Scott in Appellate is updating his previous memo that he had written during the last bond company insolvency. It will be posted on the PDWeb.

STOGNER CASE ASSIGNMENTS by Lon Sarnoff

A proposal was made a couple of weeks ago about how cases ought to be assigned for Stogner reviews and Stuart Glovin contacted Mr. Sarnoff with a contrary position. Mr. Glovin's position was discussed at the Monday executive staff meeting, and it was decided that some of the issues raised by Mr. Glovin warranted further discussion.

Mr. Sarnoff recited two case situations and opened the matter up for discussion:

The first situation involves cases identified by the DA as potential Stogner cases, and the DPD who originally handled such a case is still assigned to the location where the case had arisen. All agreed that case should go back to that lawyer for preparation for possible Stogner relief.

The second situation, the DPD who originally handled the case is still with our office, but presently assigned to a different location. An additional question to be decided is who is the head deputy that is suppose to monitor the progress and the reporting?

Mr. Glovin was given the floor and began to outline his position. He believes it's a good idea to whenever we can to assume continuity of representation. We do that in many instances, but we do deviate from that policy in others. We deviate from that policy when lawyers are transferred, in fact, we often deviate from that policy when we have a probation violation. That's not really that much different than the situation we have here in Stogner.

The reason that we reassign cases is because it would otherwise create much chaos and awful lot of confusion. It would require a DPD at a particular branch to re-arrange his/her calendar, re-arrange his/her schedule, travel down to another courthouse, park at another courthouse, (incurring an expense and time), taking time away from the matters that he should be doing in his own branch. If a lawyer in another branch is handling it, the file will have to go to that other branch. Often these are complicated cases the files are usually pretty thick.

If one examines how Stogner works, there is not necessarily any special brand of expertise that the sentencing lawyer had, that an on site lawyer wouldn't have. There may be nothing special contained within the case which causes the original trial deputy to have an advantage when making the argument, than a lawyer on site. In many instances any DPD can make the argument if they understand, the dates in which the incident occurred, the principles of Stogner, our office's interpretation, and the DA's office interpretation. According to Mr. Glovin, there is nothing which says that the original trial lawyer is going to make a better argument than the lawyer on site.

Per Mr. Glovin there are two things that can happen when you argue Stogner, one is it may be determined there is no real issue in the case or the motion may be lost, or we may get the motion granted. In those cases, where we decided that there is no motion, it may be better to have another lawyer handle that case, than the original DPD. When we discuss Stogner with a client, the first thing that this client is going to think is there is a sense of mistrust, of unreliability when this lawyer says, you know, we don't have an issue here, and if we have another lawyer come in and say look I don't have any personal agenda about this, I wasn't there when you entered the plea, I took a fresh look at this case, and started with a clean slate, I'm giving you a second opinion and that second opinion is I just don't think we have an issue. The client if he is going to perceive an honest opinion as far as he is concerned is probably going to trust a second lawyer or certainly not trust him any less than the first lawyer.

Mr. Glovin asserted the real question though in those cases, is do we think that we have a legitimate Stogner issue and it can have some sort of effect upon the case in the future. There are a lot of things that can happen, there may be a right to withdraw a plea, or a right to have a re-sentencing, or even a right to a new trial.

There may be situations where because of a rapport developed between the client and the attorney, because of the uniqueness of the case, the original attorney should be brought back in to handle that case.

If in fact we have the original sentencing DPD say I looked at this, and you have a winner under Stogner, a great number of our clients are going to say well thanks a lot pal I wish you would have done that the first time because I've been spending the last 4 years in Soledad, with a child molester jacket. Clients, can sometimes be rather difficult when we have to waive time to remain in custody so we can get necessary investigation done. If somebody spends 4 years in jail, for something they believe they should have never been in jail for in the first place, the client may be resentful. If you bring somebody new into the case, you'll have a very different atmosphere, and a very different perspective as far as the lawyer is concerned. The client will look at the new DPD in a way in which the very first contact this client has with the lawyer the client thinks his new DPD has been successful, and has done something positive for this client, he's had a motion granted. The client may be more willing to work with this new DPD, and they will enjoy a better start. We have a policy in this office of vertical representation, but we do deviate from it when the situation calls for it. Mr. Glovin believes this is one of those situations.

Mr. Kalunian stated Mr. Glovin's memo raised important issues and it was felt it would be good to discuss it at Expanded Staff and let everybody see the issues, because basically its probably going to come down to the Head Deputies' discretion and hopefully there won't be too many disagreements between Head Deputies as to who should be assigned the case.

In adding to the discussion Mr. Abajian stated there are two considerations on these Stogner cases: The first one obviously is doing it right, and the second is doing it quickly because these are different then cases such as Romero. Many of these cases are going to be dismissed, and there are people who were convicted wrongly or are sitting in jail, or prison, or are on parole, its important that we act rather quickly, and the approach that Mr. Glovin has given is less cumbersome and it would allow us to act more quickly.

Per Mr. Abajian, if we could combine it with, the exercise of discretion by the Head Deputies in certain cases would also allow us to do it right and be accurate. Mr. Abajian believes it is important that we do it this way, that the Head Deputies look at the cases where they do need to get input or have the original attorney handle it. Cases where, there may have been a plea bargain and maybe some of the counts are barred under Stogner and some aren't, then we have a strategic decision to make as to whether we want to even run the motion to vacate.

Mr. Sarnoff stated we've been talking about what's in the best interest of the client of course that is very important, but there is also the best interest of the DPD. In a small number of these cases there were contested trials, (there are probably no more than 15 trials). In those cases it may be in the lawyer's best interest to be able to take that case back to court and walk the client out as a free person.

Our purpose of discussing this was to raise the issues and discuss these issues as there are a lot of factors involved, and the Head Deputies should exercise their discretion as to who the case will be assigned to.

REGISTRATION FEES-JANET YARBROUGH

About three or four months ago, we were contacted by the Superior Court, and we were told by the court business managers, that they were expanding the Registration Fee Collection process to General Collection Services (GCS) countywide. It hasn't happened as of yet.

In the meantime, a departmental committee, "Registration Fees Protocol Committee", is looking at streamlining the process including what we are doing, what we have to do, and what things we could do to better the process.

The Committee identified five things that could be eliminated forthwith regardless of whether collections are by the court or by GCS Collections:

- The pink & green forms that are coming downtown do not need to be sent downtown anymore

to central services. The green copy should be kept with the court case file. The pink copy of that form should be forwarded to GC Services. If the court is collecting, it should be kept in the branch for right now.

- The weekly stats that are maintained and sent to Bob Kalunian's office need not be sent to him any more.
- Checking off in the box stamped on the interview sheet as to whether or not fees have been assessed need not be done anymore.
- The logs of all clients assessed a registration fee should be retained internally, but not sent to central services.
- And finally Fiscal Services need not be notified of the number unpaid registration fees, as the collection agency will have an accurate data base on payments received.

There are two things that are in the original protocol that have remained constant through all of the protocol changes that aren't identified in the memo, they should still be done. One, that the brochure explaining the registration fee and process that we are handing out to clients initially should still be distributed to the clients. Secondly, the TCIS PF 11 form must be attached with the information that goes to GCS. That still remains in the protocol.

When implementation for GCS Collection goes countywide there will be some new reporting requirements which will be explained then.

2003 CHARITABLE GIVING CAMPAIGN by Carol Clem

Carol Clem was introduced as the new Department Charitable Giving Coordinator.

Ms. Clem has sent out an e-mail and memo to all staff about the major points of the campaign. In addition to the payroll deduction, she has the forms available if anybody wants one, there are entertainment books available for specific areas in the county, also Santa Barbara, Orange County, San Diego, West L.A., San Gabriel. If there are people that are interested in these books, please have them call her directly and she will handle it. There are also discount tickets to the Los Angeles County Fair. Please make information available about the discounts that are available to employees. Ms. Clem will be happy to help any one fill out any of the forms.